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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,064	04/12/2002	Jeremy Dennis Bartlett	Q68069	6007
7590	12/20/2005		EXAMINER	
Sughrue Mion 2100 Pennsylvania Avenue NW Washington, DC 20037-3202			THALER, MICHAEL H	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,064

Applicant(s)

BARTLETT, JEREMY DENNIS

Examiner

Michael Thaler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-11 and 13 is/are rejected.
- 7) ☒ Claim(s) 5-8 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Nov. 15, 2005 has been entered.

Claims 1-4, 9 and 10 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Applicant's Disclosure. Applicant admits that the stent shown on the right side of figure 3 and described at the top of the table shown in figure 4 is prior art. The prior art filament ends are fixed together by placing the filaments over one another and placing them adjacent to and substantially parallel to one another. (The filaments are substantially parallel to one another since they are oriented in the same direction as they are helically wound around each other.) Alternatively, it would have been obvious that the filaments are substantially parallel to one another for this reason. As to claim 2, the filaments are biased toward the expanded configuration and therefore the respective filaments are biased out of alignment with the adjacent filament. As to claims 3 and

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4 the welded bead at the extreme end of the twisted end and described as a "Welded Bead" in figure 4 is considered to be the claimed "bead". As to claim 10, the filaments are parallel to each other at the helical twisted area and are therefore joined at an angle of zero degrees.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Disclosure in view of Wallsten et al. (5,061,275). The admitted prior art fails to disclose the filaments bending outwardly. However, Wallsten et al. teach that the ends of filaments of a stent, when unloaded, should bend radially outwardly so that it has the advantage that when implanted, it will have a substantially constant diameter. Further, this arrangement has the apparent advantage of providing a better securement of the ends of the stent with the body conduit. It would have been obvious to so shape the admitted prior filaments so that it too would have these advantages. Note that the angle at which the filaments bend increases as the filaments extend toward the ends of the stent as shown in figure 8 of Wallsten et al., for example.

Claims 1-4, 9, 10 and 13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wallsten (UK 2135585). Wallsten discloses first and second sets of mutually counter rotating

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metallic filaments (page 8, lines 13-23) in which some or all of the filament ends are fixed together in pairs (page 5, lines 24-32) by placing the filaments adjacent to and substantially parallel to one another (since each pair of filament ends are attached to a U-shaped member and since the sides of a U are substantially parallel to one another and further comprising a join (the U-shaped member) at each end fixing to retain the ends of the filaments in contact with one other. Alternatively, it would have been obvious that the filaments are substantially parallel to one another since the sides of a U are substantially parallel to one another. As to claim 2, the filaments are biased toward the expanded configuration and therefore the respective filaments are biased out of alignment with the adjacent filament.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wallsten (UK 2135585) in view of Wallsten et al. (5,061,275). Wallsten (UK 2135585) fails to disclose the filaments bending outwardly. However, Wallsten et al. (5,061,275) teach that the ends of filaments of a stent, when unloaded, should bend radially outwardly so that it has the advantage that when implanted, it will have a substantially constant diameter. Further, this arrangement has the apparent advantage of providing a better securement of the ends of the

stent with the body conduit. It would have been obvious to so shape the Wallsten (UK 2135585) filaments so that it too would have these advantages.

Claims 5-8 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments filed Nov. 15, 2005 have been fully considered but they are not persuasive. As to claim 1, the admitted prior art clearly shows the filaments being substantially parallel to one another as claimed since they are oriented in the same direction as they are helically wound around each other. The allegation that the term "parallel" requires the lines or members to be straight is not well taken. One of the definitions of "parallel" in dictionary.com is "Of relating to, or designating curves or surfaces everywhere equidistant". Further, Wallsten et al. (5,061,275) uses the term "parallel" when describing the helically extending curved thread elements 18, 19 and 20. Further, the filaments of the admitted prior art do not intersect, as alleged since they are twisted around one another, but do not cross one another, as in the beams of a cross, for example. The term "straight" does not appear in this claim. As to claim 2, the filaments are biased

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of the admitted prior art toward the expanded configuration and therefore the respective filaments are biased out of alignment with the adjacent filament as broadly claimed. As to the combination of the admitted prior art and Wallsten et al., the motivation for modifying the admitted prior art has been set forth in the rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

mht
12/19/05



MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731